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10/016,831	12/12/2001	Mark Andrew Boys	P1364	7488

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EXAMINER

HEWITT II, CALVIN L

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/016,831  
Filing Date: December 12, 2001  
Appellant(s): BOYS, MARK ANDREW

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Mark Andrew Boys  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 11 May 2006 appealing from the  
Office action mailed 09 February 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 112***

Claims 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a data store accessible to the server and storing information about individuals or families, pre-qualified for donations and *associated each* with a specified account with a financial institution...", however, it is unclear what the Applicant means by "associated each".

Claims 2-12 are also rejected as they depend from claim 1.

***Claim Rejections - 35 USC § 103***

Claims 1-7 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber et al., US Patent Application Publication 2002/0029179.

As per claims 1, 4, 5, 13, 16 and 17, Gruber et al. teach a system for direct donation comprising:

- server accessible by potential donors (figure 1)
- data store accessible to the server and storing information about recipients pre-qualified to receive donations (figures 1, 2, and 8-10)
- software suite enabling a donor to view information about recipients and enabling a donor to make a donation to the selected recipient (figures 2 and 8-10)
- setting up accounts for donors and recipients interacting with a financial institution for crediting a recipient account and debiting a donor account (figures 5 and 6)

Gruber et al. do not specifically recite individuals or families. However, to one of ordinary skill, a charitable organization can be a large (e.g. UNICEF), a single individual, or any size in-between (figures 8 and 9), therefore the prior art at least suggests storing information about recipients such as individuals or families.

As per claims 2 and 14, Gruber et al. teach a system for making donations over the internet (figures 1, 2 and 8-10). Gruber et al. also teach displaying recipients (figures 3 and 5), "clicking on a recipient" (figure 3), and learning more about a recipient at a recipient's webpage (page 3, paragraph 37). Hypertext and

hyperlinks are old and well known. Therefore, it would have been obvious to one of ordinary skill to construct a web document where a user can click on a recipient and be transferred to a webpage where a user can learn more about the selected recipient.

As per claims 3 and 15, Gruber et al. teach a system for making donations over the internet (figures 1, 2 and 8-10). Specifically, users interacting with the Gruber et al. system communicate with a server (figure 1; page 2, paragraph 33). A well-known method for connecting with a server is via IVR.

As per claims 6, 7, 18 and 19, Gruber et al. teach a system for making donations over the internet (figures 1, 2, and 8-10). Gruber et al. also teach setting up accounts for donors and recipients and interacting with a financial institution for crediting a recipient account and debiting a donor account (figures 5 and 6). Regarding viewing accounts; once a client as set-up an account with a financial institution, such as a bank, it is well-known that said client has access to said account. Gruber et al. disclose tax-exempt entities such as charities and nonprofit organizations (page 3, paragraphs 33 and 36). In order to qualify as "tax-exempt", an organization must file with the IRS to determine eligibility under 501(c)(3). Therefore, it would have been obvious to one of ordinary skill to make this information available to donors on the recipient's webpage in order to encourage said donor to make donations (page 3, paragraphs 36 and 37)

Claims 8-12 and 20-24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber et al., US Patent Application Publication 2002/0029179 and Cohen, U.S. Patent No. 6,422,462.

As per claims 8-12 and 20-24, Gruber et al. teach a system for making donations over the internet (figures 1, 2 and 8-10). It is well known to those of ordinary skill in charitable giving and charitable organizations to donate monetary and non-monetary gifts. However, Gruber et al. do not specifically recite redeemable documents associated with an identity for redeeming a donation. Cohen teaches a system for creating redeemable and non-transferable cards comprising creating virtual identities for a recipient which must be associated with the redeemable card to implement redemption (abstract; column 3, lines 18-27; column/line 3/55-4/11; column 5, lines 10-16; column/line 7/65-8/57; column 10, 4-13; column/line 11/57-12/15; column 13, lines 38-62). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Gruber et al. and Cohen in order to prevent an organization from using a donor's gift in a manner other unauthorized by the donor ('462, column/line 7/65-8/58).

#### **(10) Response to Argument**

The following assertion of facts (see Final Office Action dated 7-25-05) has gone unchallenged and are considered admitted prior art:

- hyperlinks and hypertext

- making charitable donations of monetary and/or non-monetary gifts
- connecting to a server via IVR
- a user has access to an account set up by said user

***Indefiniteness- Claims 1-12***

Claim 1 recites “a data store accessible to the server and storing information about individuals or families, pre-qualified for donations and *associated each* with a specified account with a financial institution...”, however, it is unclear what the Applicant means by “associated each”. If the Appellant were referring to individuals or families the Examiner would expect the claim to read, for example, “wherein each individual or family is associated with a specified account”. The language “associated each” could refer to donations or recipients, hence the claim language is not clear (*In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989)).

***Obviousness- Claims 1-24***

Appellant is of the opinion that the prior art of Gruber et al. does not teach the following:

- the ownership of the money donated never resides in an intermediary (Appeal Brief, “Appellant’s Response”, page 7, lines 15-16)

- pre-qualifying individuals and creating a joint account between the donor and the individual recipient wherein the donor donates to the account and the individual may withdraw from the same account (Appeal Brief, "Appellant's Response", page 7, lines 21-23)
- a recipient in control of the donated money (Appeal Brief, "Appellant's Response", page 8, lines 5-7)
- does not teach recipient as individuals or families (Appeal Brief, "Appellant's Response", page 8, lines 14-18)
- software executing on a server that enables donors to obtain specific information about pre-qualified individuals or families, select and make donations to said pre-qualified individuals or families (Appeal Brief, "Appellant's Response", page 8, lines 25-27)

The Examiner respectfully disagrees.

***the ownership of the money donated never resides in an intermediary***

Initially, the Examiner would like to point out that claims 1 and 13 are silent regarding such a recitation, and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims (*In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)). On the other hand, Appellant does recite a specific account with a financial institution.

Gruber et al. teach donors making donations to organizations such as "The

Arthritis Foundation" ('179, figure 9), US Armed Services ('179, figure 5), and charities, nonprofits, political action committees, and campaigns ('179, page 3, paragraph [0036]). These organizations are not banks. Gruber et al. teach a donor making a donation using a credit card ('179, figure 6). In this embodiment chooses the card type, inputs the card number, expiration date and donor/cardholder address and a deduction is made electronically (as opposed to a user getting billed by mail). Hence, when the money is electronically extracted from the donor's credit card account the money is necessarily deposited into another account. As an organization such as "The Arthritis Foundation" is not a bank, the account is held an intermediary (i.e. bank). Gruber et al. also teach informing a donor how much of a donation is tax-deductible ('179, figure 10) therefore, if only for audit purposes, the donated funds reside at least temporarily in an account at a financial institution such as a bank.

***pre-qualifying individuals and creating a joint account between the donor and the individual recipient wherein the donor donates to the account and the individual may withdraw from the same account***

Initially, the Examiner would like to point out that claims 1 and 13 are silent regarding the creation of "joint accounts" (*In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)). On the other hand, the claim does recite an account that enables donors to make contributions to and individuals or families make withdrawals from an account at a financial institution.

Charitable organizations such as the Arthritis Foundation or the Armed Forces ('179, figures 5 and 9) are not banks. Therefore, electronic contributions ('179, figure 6), are made by donors to, and organizations make withdrawals from, an account maintained at a third party financial institution ('179, figure 10).

Regarding pre-qualified individuals, Gruber et al. teach tax deductible ('179, figure 10) contributions to political action committees and political campaigns ('179, page 3, paragraph [0036]). Political campaigns are associated with an individual running for office, hence Gruber et al. teach individuals receiving contributions from donors. The Appellant is fond of bringing up the Red Cross and what that organization can and cannot do (Appeal Brief, page 8, first full paragraph). However, the Examiner has consistently relied on the teachings of Gruber et al. and what would have been rendered obvious in light of those teachings. For example, Gruber et al. disclose tax exemptions ('179, figure 10; page 3, paragraph [0036], page 5, paragraph [0060]). In order to qualify as "tax-exempt", an organization must file with the IRS to determine eligibility under 501(c)(3) ('179, figure 10). Hence, individual recipients, such as tax-exempt political campaigns and PACs, are necessarily "pre-qualified" (501(c), section 527).

***a recipient in control of the donated money***

The Examiner would like to point out that claims 1 and 13 are silent regarding a recipient controlling donated money (*In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d

1057 (Fed. Cir. 1993)). On the other hand, the claim does recite individuals or families making withdrawals from an account at a financial institution.

Gruber et al. teach donors making donations to organizations such as "The Arthritis Foundation" ('179, figure 9), US Armed Services ('179, figure 5), and charities, nonprofits, political action committees, and campaigns ('179, page 3, paragraph [0036]). These organizations are not banks. Gruber et al. teach a donor making a donation using a credit card ('179, figure 6). In this embodiment chooses the card type, inputs the card number, expiration date and donor/cardholder address and a deduction is made electronically (as opposed to a user getting billed by mail). Hence, when the money is electronically extracted from the donor's credit card account the money is necessarily deposited into another account. As an organization such as "The Arthritis Foundation" is not a bank, the account is held an intermediary (i.e. bank). Gruber et al. specifically recite individuals such as politicians receiving contributions using the system of Gruber et al. ('179, page 3, paragraph [0036]). Gruber et al. also recite that organizations such as the Arthritis Foundation will receive a donated contribution ('179, figure 10). Therefore, to one of ordinary skill individual recipients such as politicians make withdrawals (i.e. control) from a donated money account.

***does not teach recipient as individuals or families***

Regarding "individuals or families", the Gruber et al. system is directed to the broad class of "charitable organizations" (figure 8). Therefore, Gruber et al. can be used

to accept donations for causes ranging from school endowments, medical research, military personnel, UNICEF, and political campaigns. Gruber et al. do not explicitly recite families and individuals. However, Gruber et al. teach contributions to a politician's political action committee and/or political campaigns ('179, page 3, paragraph [0036]). Political campaigns are associated with an individual running for office, while a PAC can also be uniquely linked to a politician. Hence Gruber et al. at least suggests to one of ordinary skill individuals (e.g. politicians) receiving contributions from donors. Further, the Appellant challenged (Response, dated 1-18-06, page 8, second full paragraph) the Examiner's assertion of facts that charitable organizations could be dedicated to an individual or family (Office Action dated, 1-6-06, page 3). In response the Examiner directed the Appellant to a fund set up for a LAPD Officer killed in the line of duty ([www.camemorial.org/html/matar00.htm](http://www.camemorial.org/html/matar00.htm), page 3). The Appellant said the link was no longer active. However, the Appellant's point is moot as the Examiner provided copies of the website (see 892 form, dated 2-9-06). Nonetheless, the Examiner doubted that such an important website would be offline permanently so the Examiner accessed the website during writing of this Answer. The evidence is provided in a new 892, which also includes reference to a "wayback machine" printout, which shows that the site was available to the public as early as 5-19-00.

***software executing on a server that enables donors to obtain specific information about pre-qualified individuals or families, select and make donations to said pre-qualified individuals or families***

Gruber et al. teach a website on the internet that enables donors to obtain specific information about pre-qualified individuals or families, select and make donations to said pre-qualified individuals or families, such as a politician's PAC or campaign organization directed to the election of the politician ('179, figures 2, 5-8 and 10; page 3, paragraph [0036]). A website is software (e.g. HTML code) executed on a server for display on the internet. Therefore, Gruber et al. explicitly teaches software that enables donors to obtain specific information about pre-qualified individuals or families, select and make donations to said pre-qualified individuals or families.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Calvin Loyd Hewitt II

Application/Control Number: 10/016,831  
Art Unit: 3621

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Conferees:

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Hyung Sough 